

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CIRIACO PUCILLO

Plaintiff

v.

**METSO PAPER INC. AND
VALMET CONVERTING, INC.**

Defendants

C.A. NO. 03-CV-12359 MLW

**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO
DEFENDANTS' MOTION TO MODIFY SCHEDULING
ORDER TO PERMIT FILING OF DISPOSITIVE MOTIONS**

This memorandum is submitted in opposition to the Defendants Metso Paper and Valmet Converting Inc.'s Motion to Modify Scheduling Order governing this action to permit them to file dispositive motions in the form of motions for summary judgment. As grounds therefore, the Plaintiff states that the Defendants have failed to present a compelling reason for this Court to grant such a request.

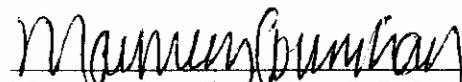
The Plaintiff submits that allowing the Defendants to file motions for summary judgment is premature in light of the fact that expert discovery has not been completed. Expert discovery in this case is necessary and appropriate in order to fully evaluate the liability of the Defendants.

Moreover, on February 18, 2005, the Plaintiff filed a Motion to Amend the Complaint in order to, *inter alia*, add additional Defendants. On March 11, 2005, the motion was denied without prejudice to possible reconsideration if it is renewed after the completion of expert discovery. The Plaintiff cannot determine whether he will seek to renew the motion until such time as expert discovery has been completed. Clearly, it is appropriate for expert discovery be completed before any summary judgment motions are permitted to be filed.

Finally, the Plaintiff has contacted the Defendant's counsel to confer with respect to the filing of an agreed schedule for expert discovery. If necessary, the Plaintiff intends to file a motion requesting that the Scheduling Order governing this action be modified to establish deadlines for expert testimony as originally contemplated at the initial scheduling conference.

WHEREFORE, the Plaintiff respectfully requests that the Defendants Motion to Modify the Scheduling Order to Permit Filing of Dispositive Motions be denied.

Respectfully Submitted,


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Attorney For Plaintiff Ciriaco Pucillo

Dated: August 18, 2005

CERTIFICATE OF SERVICE

I, Maureen Counihan, hereby certify that on August 18, 2005, I served a copy of the foregoing:

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO
MODIFY SCHEDULING ORDER TO PERMIT FILING OF DISPOSITIVE MOTIONS

by mailing, first class, postage prepaid, a copy of same directed to:

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